3. Laws of the Family and the Clan

614 1. It is forbidden to marry a person belonging to the same umulyango, whatever the degree [of relationship]. Only the Abanyiginya, the clan from which the kings come, may marry [11] within their [own] inzu (1) and a fortiori into the other imilyango.

1. The reason for this endogamy must be sought in the fact that, according to legend, Kigwa married his sister Nyampundu.

However, marriage is forbidden with the Abatshyaba, the Abungura, and the Abakomankali. They usually marry the Abega.

The Abega (the family providing the queens), the Abagessera, the Abakono, the Abaha, and the Abasinga may not marry within their [own] umulyango nor into the other inzu. They are allowed to marry the Abunguru and Abakomankali, but not the Abatshyaba.

[426] [672] 2. The active and passive solidarity [joint and separate liability] in the matter of debts exists only on the paternal side (iwabo wa se) and not in the mother's umulyango (iwabo wa nyina).

The same is true in penal matters unless it is a case of a blood debt.

4. Table of Names Indicating Relationship through Kinship and Marriage

601 Those who are members of the same umulyango are called abagil'ichyobahuriycho, abagil' ichyobapfana, or, and it is the most frequently used and most precise term, abafit'isano.

Husband: umugabo
Wife: umugore
The husband of two wives: umugabo z'ishyali
One of the wives speaking of the other: umukeba wa njye
The husband speaking of one or the other [of the wives]: umukeba we

Son:
1) When the mother speaks: umuhungu wa njye
2) When another wife of the father speaks: umuhungu wa mukeba wa njye or umuhungu w'umugabo wa njye

192 234 574 supply them with milk. In Kinyaga (Shangugu) and in Bugoyi, it is called umuheto. In Ndorwa it is called kibere. [58]

IMBYUKURUKE. A choice cow destined to be shown to a visiting high personage and to provide him with milk during his stay.

192 431 231 IBIHEMBO. Gift of cows to the wife of the king, a great chief, or a patron when she has a child.

The gift made by the Bahutu consisting simply of milk or beer is called y'ibihembo.

192 231 426 INTIZO (1). 1) A man who has been despoiled by his chief receives a cow from a friend as a loan (intizo) until justice is done. The friend may perhaps only give him milk (intizo), because by sending a cow he would ostensibly show his friendship and would thus risk incurring the wrath of the chief.

1. From gutiza, "to lend."

192 231 2) A cattle owner must give at least one milch cow to his cowherd (umushumba) who does not have time to cultivate for himself.

[465] 3) A Muhutu who cultivates the fields of a Mututsi receives milk (intizo) from him morning and evening.

4) A cow is given to two farmers who share the milk and the payments required in exchange (2).

2. Milking a cow is equal to the salary for one day of cultivation.

[681] 431 IMPONGANO. A cow given in reparation for an offense or as a present to the one (inshuti) whose intervention may help to win the lawsuit.

[696] INGURANO. A redemption cow given by a patron or the head of a family to keep the guilty one from being condemned. [59]

192 437 231 INKUNGURANYO (1). Primus, owner of a heifer approaches Secundus to ask him to exchange the cow for a female calf or for two bulls. They must not give anything in addition in order to have an absolute right over the exchanged object, but neither of them has the right to take back the exchanged value.

1. From gukunguranya, "to exchange two cows of equal value definitely and irrevocably."

428 Gifts (kugabira, to make a donation) made by the father to one of his sons, called inkazibiti, if they consist of cows, remain the property of the receiver, except in the case of unworthiness such as marked disrespect, repeated disobedience, etc. (kunyaga, to take back).

The active as well as the passive obligations are passed on to the [672] heirs. If they are unable to pay a debt, the descendants of the deceased [426] in direct line -- and only they -- are required to work one or two days a week for the benefit of the creditor's heirs, whether sons or even brothers, until the debt is completely wiped out.

4. Transmission of Property

The property is assigned to the heirs two months after death among the Batutsi, one month after among the Bahutu. However, the tools and objects may be used immediately. [63]

The son who is cursed by his father (igitshibwa or ikivume) must make restitution for everything he has received from him (inkazibiti, indemano); he is obliged to go far away all alone, without his wife or his children, abandoning all his belongings.

To clarify the mechanism of the transmission of property, we will choose four types of inheritance that commonly arise and make a diagram of the four cases.

Case 1. Inheritance of a Rich Mututsi(Provincial Chief or Umugaragu of the Mwami)

Nyirimigabo, chief of a province, dies, leaving five sons born of two wives. These are:

Bihutu, son of Mujijima, married
Nyagatoma, son of Mujijima, married
Nturo, son of Nyirampunga, not yet married
Rusagara, son of Mujijima, still a child
Mahira, son of Mujijima, still a child

On the death of his father, Nturo, the third son, becomes head of the urugo rwa se.

443 Women and children are admitted to the markets without
579 restriction. In the past, people came armed, for they risked being robbed or even killed on the way by highway bandits.

The Lease of Services (kununga).

[465] A man may agree to work for another for 50 days, for example, at the rate of [80] one or two days a week on the condition of receiving the meat of one cow in exchange.

437 Exchange (kuguza) (1)

1. Kuguza, lit., "to agree to give an advance."

A Mututsi asks a Muhutu for a granary of sorghum (ihundo, lit., an ear of sorghum) for example, in exchange for a bull calf or hoes (usually 30).

The Loan (gutiza)

● 426 The Banyarwanda distinguish the loan for use (commodatum) from the simple loan (or loan for consumption).

If the loan for use, in hoes for example, is granted without interest, the same is not true of the loan for consumption, which involves edible produce. Whoever has received a basket of sorghum or beans must usually return two. The basket of supplementary produce which must be given the lender is called kirenga.

The Guarantee (kuchyungura).

Primus owns a pruning knife which Secundus would like to borrow. Secundus does not know Primus, so he goes to Tertius, a friend of Primus. Tertius tells Primus to lend his pruning knife to Secundus and offers himself as surety if the latter does not return the tool. Tertius may eventually turn against Secundus.

This contract can be made for cows, granaries of sorghum, etc.

Security (ingwate)

Primus wishes to borrow a few baskets of beans from Secundus. But Secundus answers that he cannot give them to him without a guarantee. Primus then offers Secundus a goat, for example (2).

2. A goat is worth three hoes.

When he brings Primus the counterpart of his loan, he takes back the goat.

[81]

437 The Commission (kugerekesha) (1)

1. Kugerekesha, lit., "to add."

Primus goes to market to exchange a hoe for some beans. [Thereafter] Secundus asks him, as remuneration, to take thence one of his (Secondus') goats and exchange it for three hoes, for example.

426 The Deposit (kubitsa)

The deposit of goods not consisting of cattle involves no obligation on the part of the depositor to the depositary who agrees to keep the goods deposited with him.

These contracts are made before notables of the hill who act as witnesses. But most often they are made in front of a rugo being built or a watering trough, places where there are always many people, who in case of a dispute will give their testimony.

If one of the contractors does not meet his agreement (2)

2. In the case of absolute necessity, for example a famine or an invasion of grasshoppers, a provisional release from the obligation is allowed if the question is one of furnishing produce, sorghum or beans.

or is dishonest, the tribunal of the hill chief, on complaint of the injured party, would force him to discharge (3) his debt (4).

3. Kwishyuza, "to claim payment"; kwishyura, "to pay."

4. Umwēnda, "material."

The creditor has the option of taking a pledge, a goat for example, to oblige the debtor to pay.

If the latter cannot pay, he is condemned to work to indemnify the plaintif, usually two days out of five (5); but he can be replaced

5. Cf. p. 29, note 1.

426 by his son, his daughter, or his daughter-in-law, and possibly an umugaragu. In the past, if a debtor fled in order to avoid his obligations, the creditor had the right to seize his cattle, [82] his banana plantations, and even his hut. However, in this case, the children could keep their father's property on the condition of agreeing to work for the creditor until the debt was fully paid.

Sometimes a patron pays for his client if the latter has only a storehouse of provisions and if he needs the help of his family to work for his shebuja. If the umugaragu dies, his son takes his place. The obligation thus passes to the descendants until it is fulfilled.

On the other hand, the creditor's brother or son can act in the place of their relatives (1).

1. Laws of the Family and of the Clan, p. 8.

574 Hospitality.

The duty of hospitality is sacred to the Banyarwanda. Even a Mututsi will never refuse a Muhutu either ichumbi (lodging) or izimano (wood, water, and food). A proverb says; "Uwubaka wese yubakira abu Mwami (2), and whoever did not grant food and lodging

2. "Whoever builds (a house) does it for the people of the Mwami," which means that his house must be open to all the king's subjects.

to a traveler would be given the name of umugome (bad); he would be Uwanga Umwami (an enemy of the Mwami).

Civil responsibility.

672 Civil responsibility does not exist. The parents themselves however, repair any damage done by their children.

SECTION V. GOVERNMENT AND ADMINISTRATION

1. Nationality

563 The Munyarwanda people include the Batutsi, the Bahutu, and the Batwa. The Mututsi aristocracy of Hamite origin dominates

messenger has been dispatched. In that case the other party travels with the messenger in order to bribe him. It is not uncommon for the messenger to accept large gifts from both parties and then not do anything. The high chiefs use this opportunity to visit their lands. The case is adjourned; new, important circumstances are discovered that have not yet been considered; and the proceedings begin all over again.

[282] At the time of my visit in Mulera the legal dispute between the Barashi chief, Lukara lwa Bishingwe, and Luhanga, the client of Nshohozamigo, was in its fourth year. Each year sentence was pronounced; each year the court messenger was sent off; and each year the two parties returned. In the end Musinga grew tired of the whole affair and kept Lukara at court. After Lukara had obtained permission from Musinga to return home, on the pretense of conducting me to Mulera, he decided to resort to the final argument, to warfare. He attacked Luhanga's people and engaged in a skirmish with the column of my expedition colleague, the geologist E.F. Kirschstein, whose presence the Batutsi tried to use for their protection.

In the end, in its seventh year, the dispute was settled in Luhanga's favor when Lukara was obliged to flee from the German sphere of influence for his murder of the missionary, Father Paul Loupias. Later he was captured and hanged.

A considerable number of trials deal with the withdrawing of grants and the practice of blood revenge (kuhora enzigo) for slain clan members.

If A is granted a cow by B, B has a certain power over A. He can exert pressure on A by threatening to take back the cow. If A, however, also gets cows from C, who is more powerful than B, the latter's influence diminishes. In some cases A becomes so dependent on C that B loses his influence and moreover his cattle in favor of C. These property shifts give rise to vastly complicated suits over cattle that last for decades and become more and more complicated by small compromises, the legality of which is later challenged.

In civil cases we find the institution of kugombeka. If A is indebted to B and does not pay him or refuses to return something granted him and now demanded back, A can be distrained. If

debtor A owns something that is being used by C, a cow, for example, then B can bring C a present and, with C's permission, declare the object belonging to A as kugombeka. In this case A loses all rights to the object he has deposited with C until he has settled his debt, and the object is now regarded as B's property. If A is powerful, the kugombeka of his property is declared void. If he is not influential, this becomes a very profitable business. In view of the duration of the suits, C always has the prospect of being able to appropriate the thing that has been put in his charge or at least of using it without incurring obligation. But under the rules of kugombeka he is responsible to B for the object. If he gives it back to its original owner A, he must replace its value to B or [283] owe it to him, and this starts a second suit between B and C which is separate from that between A and B.

If the users of A's property refuse to accept kugombeka, the creditor can only resort to kufatira.

Kufatira is the confiscation of part of the property of an individual whom one wishes to force to defray his debt or to meet his responsibilities. Kufatira is also used to force someone to appear at a trial. The use of force is conceded in the case of kufatira, but otherwise infringement of property rights and the use of violence are basically regarded as punishable offenses.

Kufatira can be used successfully only against weaker debtors. If the debtor is very weak, he can even be plundered and bound with a rope until his family takes mercy on him and ransoms him. If, however, the debtor is powerful, kufatira can have all the consequences of a lost war, and there is no recourse but to make one's concern the concern of stronger protectors.

In cases of theft, the procedure is considerably simpler, and the judge receives no presents.

Evidence. The testimony of witnesses is very important in court trials in Ruanda. The accused has the right to demand witnesses to prove his guilt, but he also has the right to eliminate the testimony of certain witnesses if he has convincing reasons. Such witnesses are, for example, relatives, blood brothers, and clients (bagaragu) of the accuser. The accuser is obliged to comply

9: Maquet E-5 (1949-1951) 1961 FO42 Rundi FO42

Nothing was definitely left to the wife, the daughters or the affines. But the wife had the usufruct of the rugo in which she had been living while she still had young children to care for. Even when all the children were married, it happened frequently among Tutsi that the wife remained in the rugo till her death. This was usual when the widow married one of her husband's consanguineal relatives, or did not marry again. If she married a man completely alien to her former husband's patrilineage, usually she had to leave the rugo.

The father, before he died, had already given a share of the inheritance to each of his married sons, at the time of the wedding. Consequently, what was left at the father's death had to be divided among the sons who had not yet received anything. In principle rights to cattle as well as to land were equally shared. When bare ownership of cattle was divided between the sons of a lord, the clients of the father became clients of the son to whom the bare ownership of a particular cow or herd of cattle had been ascribed. When usufruct on cattle had to be inherited, the successors became clients of the people who had the bare ownership of the same cattle. But the lord had to agree on the choice of his new client.

In a polygynous family the principle of equality of shares held good for each rugo. Consequently the shares of the sons of the same father could vary considerably if the number of sons of each wife was very dissimilar.

The son chosen as head of the rugo had a supplementary share (*ingarigari*) as he had more economic responsibilities. Normally he received it before his father's death. This was called *gukubita itoko*, to stroke the thigh, meaning to give a favour.

Debts owed by the deceased were divided between his heirs, but the family head had to meet a greater part than the others. Judiciary fines were cancelled by the death of the debtor. When the deceased was creditor, the debt had to be paid by the rugo head who shared it with his co-heirs.

The father could also make a will and usually did. He could alter the traditional procedure within rather narrow limits, and for reasons regarded as valid by the patrilineage head or sometimes the political chief or the lord. A son who had been cursed was *ipso facto* disinherited. A son could be punished in the same way